

**REMARKS**

Claims 1-5, 9 and 11-13 are all the claims pending in the application. All claims are rejected over prior art. Reconsideration of the application and allowance of all claims are respectfully requested.

In the Office action mailed May 25, 2007, the examiner rejected claim 1 over the combination of Kobayashi, Kato and Stumer, and claim 4 was rejected over the combination of Kobayashi, Kato and Barnes.

In the Office action mailed February 20, 2008, claim 1 was rejected over the combination of Kobayashi, Kato and Akiyama, with claim 4 being rejected over the combination of Kobayashi, Kato and Kim.

In the Office action mailed December 8, 2008, the examiner allowed claim 1 but maintained the rejection of claim 4 over the combination of Kobayashi, Kato and Kim.

Now after considering applicant's appeal brief, the examiner has withdrawn the rejections and has stated new rejections, although one of the rejections is actually not a new rejection but was previously stated. Claim 1 is now rejected over the combination of Kobayashi, Kato and Vernooij (USP 6,345,901) while claim 4 is now again rejected over the combination of Kobayashi, Kato and Barnes, the same rejection as stated in the Office action mailed May 25, 2007.

The rejection of claim 4 is traversed for the same reasons as given in the response filed November 26, 2007. The claim requires that when the signaling channel is congested, one or more of the information channels can be neutralized such that the neutralized channel cannot be

used for setting up calls or modifying existing calls. The examiner reads the claimed “neutralizing” excessively broadly, and considers it to read on the operation of Barnes et al wherein a B-channel can be muted when errors are detected. But Barnes is simply seeking to prevent the user from having to listen to the poor sound quality of a degraded channel. There is nothing that suggests this should be done when a signaling channel is not sufficiently functional. Further, muting a channel is not neutralizing it, nor is it inhibiting the functionality of a channel. The channel still works to its fullest, and it is only the reproduction of audio from the channel that is affected in Barnes.

As to the rejection of claim 1, the examiner relies now on Vernooij to teach the use of an unused data channel as a signaling channel. Vernooij addresses a problem wherein a base access has two 64 kbit/s data channels, and a primary rate access has thirty 64 kbit/s data channels, but sometimes a customer needs more than a base access can provide but less than a primary access provides. So Vernooij proposes a way to adapt a primary rate access for sharing by multiple customers. But each customer will require its own signaling channel, so what Vernooij proposes to do is to use one the of B channels of the primary rate access as a signaling channel, thereby allowing two different PBX's to use the same primary rate access.

The use of a data channel for signaling channel purposes is done in Vernooij for a specific purpose, i.e., allowing a primary rate access (which has only one signaling channel) to be shared by plural PBX's each of which requires its own signaling channel. If one of skill in the art were to consider this teaching in Vernooij, the artisan would see no reason to convert a data channel to a signaling channel for any other purpose. Adopting the teaching of Vernooij into Kobayashi would perhaps lead to converting a B channel to a D channel, but since the reason for

doing this in Vernooij is to allow multiple PBX's to use the same access, whatever B channel is converted to a D channel would be for use by the PBX whose B channel is on the same access. Claim 1 of the present application recites that the conversion of a data channel to a signaling channel is the conversion of a data channel of one access into a signaling channel for use in conjunction with a data channel from a different access. Thus, what is recited in claim 1 of the present application cannot possibly have anything to do with the problem in Vernooij.

In fact, the only relevance of Vernooij is that it was known to use a data channel as a signaling channel. But this teaching is already seen in other art of record, e.g., Akiyama relied on by the examiner in the Office action mailed February 20, 2008. But the simple use of a data channel as a signaling channel is not all that the invention is. Claim 1 recites that a first access has a plurality of information channels and a signaling channel, and the additional signaling channel is formed from a data channel of the **second** access but acts as a signaling channel for an information channel ("said one information channel") of the **first** access. Vernooij does not teach this.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited.

Respectfully submitted,

/DJCushing/  
David J. Cushing  
Registration No. 28,703

SUGHRUE MION, PLLC  
Telephone: (202) 293-7060  
Facsimile: (202) 293-7860

WASHINGTON OFFICE

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